

Senate File 430 - Introduced

SENATE FILE 430

BY LOFGREN

A BILL FOR

1 An Act relating to the duties of insurers under medical
2 malpractice insurance policies.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 507B.4D Medical malpractice policy
2 limit — insurer liability.

3 1. An insurance company insuring a health care provider,
4 as defined in section 135P.1, against professional negligence
5 shall at all times negotiate in good faith all claims presented
6 to the provider. If a claimant offers to settle a claim
7 within the professional negligence insurance policy coverage
8 limits and the insurance company refuses or declines the
9 offer and the claim proceeds to judgment in excess of the
10 insurance policy coverage limits, the insurance company shall
11 be liable for the full amount of the judgment regardless
12 of the existing insurance policy coverage limitation. The
13 insurance company has a duty to negotiate a settlement within
14 the policy limits if an offer is made by a claimant at or
15 within the policy limits. If the insurance company does not
16 do so, the health care provider shall have a cause of action
17 against the insurance company for the failure to negotiate a
18 settlement within the policy limits. The damages shall include
19 the recovery of all costs the health care provider incurs and
20 reasonable attorney fees.

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EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill provides that an insurance company insuring a
25 health care provider against professional negligence shall
26 negotiate in good faith all claims presented to the provider.
27 If a claimant offers to settle within the policy limits and the
28 insurer refuses or declines the offer and the claim proceeds to
29 judgment in excess of the policy limit, the insurance company
30 is liable for the full amount regardless of policy limitation.
31 The insurance company has a duty to negotiate a settlement
32 within policy limits if an offer has been made by the claimant
33 at or within the policy limits. If the insurance company
34 fails to do so, the health care provider has a cause of action
35 against the insurance company.